

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

O.A.No./T.A.No. 91 of 1999

Date of decision 26/5/99

Jyoti Prasad

Applicant(s)

C/A

Sri R.C.Pathak, Ajay Rajendra, COUNSEL for the  
Advts. Applicant(s)

Versus

Union of India & Ors.

Respondent(s)

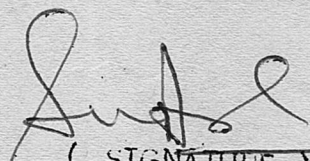
Shri Satish Mandhyan

Counsel for the  
Respondent(s)

C O R A M

Hon'ble Mr. S. Dayal V.G./Member(A)  
Hon'ble Mr. S.K. Agrawal Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporters or not ?
3. Whether their Lordship wish to see the fair copy of the judgment ?
4. Whether to be circulated to all Benches ?

  
( SIGNATURE )

MANISH/



(Reserved)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

ORIGINAL APPLICATION NO. 91 OF 1999

Allahabad, this the 26th day of May, 1999.

CORAM : Hon'ble Mr. S. Dayal, Member(A)  
Hon'ble Mr. S. K. Agrawal, Member(J)

Jyoti Prasad,  
S/o. Late Dal Chand,  
R/o. 45, Ashok Colony,  
Pilibhit.

.....Applicant

By Shri R. C. Pathak, Shri Ajay Rajendra, Advocates.

Versus

1. The Union of India through the Secretary,  
Telecommunications, Sanchar Bhawan,  
New Delhi.
2. The Chief General Manager,  
Telecom. U.P. West Circle, Dehradun.
3. The Telecom District Manager, Rampur.

.....Respondents

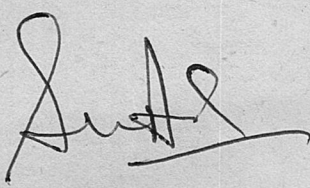
By Shri Satish Mandhyan, Advocate

O R D E R

(By Hon'ble Mr. S. K. Agrawal, Member(J) )

In this original application the applicant  
makes a prayer -

- (i) to quash the impugned order dated 7-1-99  
passed by respondent No. 2 terminating the  
officiating arrangement of the applicant  
as Divisional Engineer (Phones), Pilibhit.





(ii) to direct the respondents not to disturb the applicant working as D.E.(Phones) Pilibhit till the regular appointment is made on that post.

(iii) direct the respondent No.1 to include the name of the applicant in the list dated 11-1-99.

2. The facts of the case as stated by the applicant are that the applicant was recruited as Junior Telecom Officer on 5-3-74 and he was promoted as S.D.E. on 20-10-90 and on 8-11-98 the applicant was posted as S.D.E.(Phones) Bareilly.

3. The case of the applicant is that regular post of D.E.(Phones) could not be filled up, therefore in order to promote the eligible persons on officiating basis Dy.General Manager (Telephone) issued a list of officiating persons on 2-7-98 and the applicant was sent to Bareilly and thereafter he was transferred to Rampur where he joined the duties on 31-7-98. On 7-10-98 the applicant was transferred from Rampur to Pilibhit and he joined the duties on 9-10-98, but all of sudden vide order dated 7-1-99 respondent No.2 has terminated the officiating arrangement of the applicant as D.E.(Phones) Pilibhit. It is stated that again vide order dated 11-1-99, 19 persons were allowed to officiate on the post of D.E.(Phones), but the applicant was not allowed further to officiate on the post of D.E.(Phones) and 40 point roster was not followed while issuing the list dated 11-1-99. It is further stated that Sri Pramod Kumar and Hari Om who are junior to the applicant were allowed to look after D.E.(Phones) vide T.D.M. order

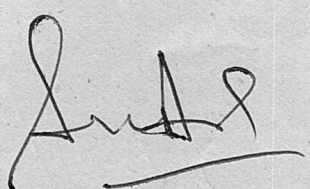
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dated 15-1-99. It is stated that applicant was discriminated, therefore, he filed representation to Chief General Manager(Telecom), Dehradun requesting to allow him to look after the arrangements of D.E.(Phones) Pilibhit. It is stated that no regularly selected candidate has joined so far and the applicant has not been relieved. The applicant is also carrying out very important work. Therefore it is stated by the applicant that without giving any opportunity to the applicant the impugned order was passed, therefore the action of respondents is wholly arbitrary, illegal and against the provisions of law. Applicant therefore filed this original application for the relief as mentioned above.

4. On 9-2-99 this Tribunal issued an interim order to maintain status-quo as on today till the prayer for interim relief is concerned.

5. Counter was filed. It is stated in the counter that officiating arrangements were made vide order dated 2-7-98 were only for 180 days, which were terminated vide order dated 7-1-99 and terminating the officiating arrangements in this way does not infringe any of the fundamental rights of the applicant. It is also stated in the counter that the performance of the applicant was poor which was communicated to the applicant by T.D.M. after inspection. The applicant was relieved w.e.f. 27-1-99 by specific order dated 25-1-99. 200 point roster is applicable in the Central Govt. offices which was implemented during the officiating arrangements. It is also stated in the counter specifically that no representation has been received by the respondents so





far and there are only 2 posts of D.E.(Phones) under T.D.M. Rampur and both are filled up by regular incumbent and no more post is vacant. The officiating arrangement of 19 persons were made according to seniority and applicant is still lowered down in the seniority as well as roster point. Therefore this O.A. is devoid of any merit and is liable to be dismissed.

6. Rejoinder, Supplementary Counter Affidavit and Supplementary Rejoinder Affidavit has also been filed which are on record.

7. Heard the learned lawyer for the parties and also perused the whole record.

8. In the Supplementary Counter Affidavit it has been made clear that according to the 200 point roster the Scheduled Caste candidate would get the post at Sl.No.7, 15, 20, 27 and so on in the gradation list. The order dated 11-1-99 makes provision for officiating arrangements of 19 persons, therefore, action of respondents not including the name of the applicant for appointing him on officiating arrangement on the post of D.E.(Phones) is neither arbitrary nor illegal and against any provisions of law.

9. It is a settled principle of law that adhoc officiation without being selected for the promotional post does not confer any right for continued officiation on the promotion post. This view gets support in leading case Jethanand Vs.U.O.I. and Others, Bahari Brothers

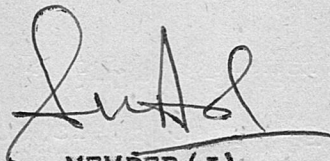
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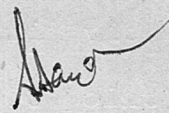


(FB) C.A.T. judgements 1986-89 353 and Food Corporation of India Vs. Tomeshwar Kalinga & Sons 1995 (2) ATJ 357.

10. On the basis of the pleadings of the parties also, it appears that officiating arrangements for 19 persons according to seniority and roster point has been made vide order dated 11-1-99 and the applicant is still lower down on roster point as well as seniority, therefore the applicant has no case in his favour and this O.A. is devoid of any merit and liable to be dismissed.

11. We, therefore, dismiss this O.A. with no order as to costs.

  
MEMBER (J)

  
MEMBER (A)

satya/